

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION OF TELECOMMUNICATIONS)	
SERVICES BY AMERICALL DIAL-O)	
SERVICES, INC.)	
_____)	CASE NO.
)	90-001
ALLEGED VIOLATIONS OF KRS CHAPTER 278)	

O R D E R

This matter arising upon petition of AmeriCall Dial-O Services, Inc. ("Dial-O") filed September 24, 1990 pursuant to 807 KAR 5:001, Section 7, for confidential protection of its 1989 federal income tax return on the grounds that the return is exempt from disclosure as confidential by federal and state law and that disclosure of the information is likely to cause Dial-O competitive injury, and upon motion filed October 4, 1990 for return of the information following the entry of a final non-appealable judgment in this case, and it appearing to this Commission as follows:

Dial-O has filed copies of its 1989 United States Income Tax Return for an S Corporation, including Schedule A, Schedule K, Schedule L, Schedule M and Depreciation and Amortization. The information was requested by the Commission to verify the comments concerning Dial-O's losses made by Michael Stinson at a hearing before this Commission on September 5, 1990. The information is not normally available to the public and is known only to those

employees of Dial-O who have a business need to know and use the information. Dial-O contends that the information is confidential by both federal and state law and that disclosure of the information is likely to cause Dial-O competitive injury.

KRS 61.878(1)(j) exempts from the Kentucky Open Records Act "public records or information, the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly." Similarly, KRS 61.878(1)(i) exempts from the Act "all public records or information, the disclosure of which is prohibited by federal law or regulation." Both provisions are applicable to the income tax return filed by Dial-O.

26 USCA §6103(a), declares that all income tax returns and return information are confidential and prohibits their public disclosure by state officials. Therefore, the federal income tax return filed by Dial-O is exempt from disclosure under KRS 61.878(1)(i).

Dial-O also requests that the information be returned when this proceeding is complete and no longer subject to appeal. 807 KAR 5:001, Section 7(8), provides:

Within sixty (60) days following the entry of a final order in a formal proceeding in which no court appeal is taken, the commission shall return confidential material or information to its source, unless the commission determines in its discretion that the confidential material or information should be retained. If retained, the commission shall continue to accord confidential treatment to the material or information.

Because this information is merely being used to verify the testimony of a witness, the Commission will have no further need

of the information when this action is complete. Therefore, the information should be returned to Dial-O in accordance with the Commission's regulations.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The 1989 federal income tax return and the supporting schedules, which Dial-O has petitioned be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

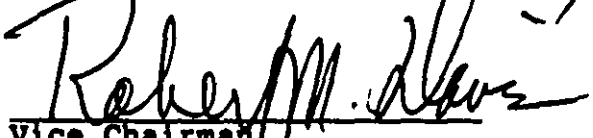
2. Dial-O shall, within 10 days of the date of this Order, file edited copies of the return, with the confidential material obscured for inclusion in the public record, with copies to all parties of record.

3. If, at the expiration of 60 days following the entry of a final Order in this proceeding, no court appeal is taken, the Commission shall return to Dial-O the information protected under this Order.

Done at Frankfort, Kentucky, this 26th day of November, 1990.

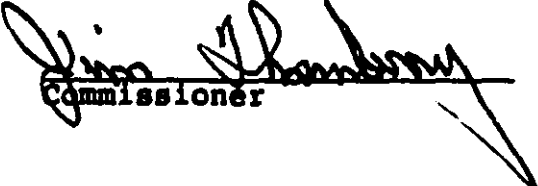
PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

ATTEST:


Executive Director


Commissioner